



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Caliente Field Office

P.O. Box 237 (1400 South Front St.)
Caliente, Nevada 89008-0237

http://www.blm.gov/nv/st/en/fo/ely_field_office.html

In Reply Refer To:
4110

PROPOSED DECISION

Conversion of Four Temporary Emergency Stabilization Rehabilitation (ESR) Fences to Permanent Range Improvements for Authorizations #2705005, #2705098, #2705050, #2703639, #2705036, and #2705027.

Dear Interested Public:

The Bureau of Land Management (BLM) has determined that 4 temporary fences constructed for Emergency Stabilization and Rehabilitation (ESR) are beneficial to manage livestock operations in the Mustang, Rattlesnake, Garden Spring and Barclay allotments (Maps 1-8). New fence construction (3200') on the west end of the Garden Spring allotment ESR fence will be installed to provide a better geographic barrier for cattle. These permanent range improvements will offer livestock operators additional management options, such as deferred rotation and rest rotation of the pastures, as well as the ability to respond to changes and seasonal variability in forage production and plant health.

BACKGROUND

The fences were constructed in response to Emergency Fire Rehabilitation Plans (1999 to 2006) for the purpose of excluding or reducing livestock from burned areas. The four allotments lie northwest and southeast of Caliente, Nevada in Lincoln County, Nevada. These grazing allotments are part of the Mojave-Southern Great Basin Area Standards that provide direction for soil, riparian and biotic rangeland health. Livestock were excluded from fire seeded areas through construction of the subject fences. The fire rehabilitation and seeding efforts have been successful, and these fences are slated for removal from grazing allotments under their respective Decisions unless further Environmental Assessment indicates the 12.45 miles of ESR fence and 3200' of new fence are appropriate for grazing allotment use (Maps 1-8).

During the spring of 2015, permittees were contacted by BLM to discuss conversion of remaining temporary ESR fences to permanent range improvements. The four fences listed in this Decision reflect the allotments where permittees and BLM are collectively interested in using the fences for voluntary rotational grazing opportunities as well as to changes and seasonal variability in forage production and plant health.

Other resources present:

- The North Pahroc ESR Fence is within the Silver King Herd Management Area (HMA) and the Blue Garden ESR Fence is in Blue Nose Peak Herd Area (HA).
- Three authorized rights-of-way (ROW) exist within the vicinity of the Mustang and Kendall fences. There are no existing authorizations in the vicinity of the North Pahroc and Garden Spring fences.

An interdisciplinary team (IDT) prepared an Environmental Assessment (EA) and concluded that although other resources may be present in the planning area, they did not warrant further analysis.

The IDT determined, in the EA, that no effects to wild horses are anticipated because the ESR fence in the Silver King HMA (North Pahroc fence) is open-ended on its south end, and the fence has been in place since 2002 without observed impacts. The Blue Garden ESR Fence is in Blue Nose Peak Herd Area (HA) and these HA's have been slated to be absent for wild horses since the 2008 Ely RMP, although ongoing wild horses do persist on many HA units in the Field Office.

The Decision also provides that although there are three authorized Rights of Ways (ROW) in the vicinity of Mustang and Kendall fences, the fences, as they exist, do not impact the ROWs. In addition, an extension of the Garden fence would not impact existing ROWs as there are none in the vicinity.

For livestock grazing, the addition of the four ESR fences and the extension, would permit additional rotation grazing opportunities for BLM's livestock permittees. Cross-allotment fencing, even if open-ended, can better enable livestock operators to respond to changes and seasonal variability in forage production and plant health.

AUTHORITY

All citations are from Part 43, Code of Federal Regulations (CFR), Subpart 4100 (2005). This decision, with the enclosed environmental analysis, shall be considered the proposed decision under subpart 4120 and 4160 of this part (See Authority below).

In the absence of a protest, this Proposed Decision will become the final decision, in accordance with 43 CFR §4160.3(a).

PROPOSED DECISION

After consideration of the information received by grazing permittees and reviewed by BLM, it is my Proposed Decision to authorize the conversion of the four subject temporary range improvements to permanent livestock grazing improvements. The addition of 3200' of new fence construction on the west end of the Garden Spring allotment ESR fence will also be authorized under this Decision.

AUTHORITY

The following citations are from Part 43, Code of Federal Regulations (CFR), Subpart 4100 (2005), and apply to this Decision:

- §4120.3-1(f) Conditions for Range Improvements - Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.
- §4120.3-3(a) Range Improvement Permits - Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify removable range improvements that are needed to achieve management objectives for the allotment in which the permit or lease is held. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.
- § 4120.3-1(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple use management.
- § 4120.3-1(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.
- § 4120.3-1(e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States. • § 4120.3-1(f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.
- § 4120.3-2(d) Range improvement work performed by a cooperator or permittee on the public lands or lands administered by the Bureau of Land Management does not confer the exclusive right to use the improvement or the land affected by the range improvement work.
- § 4120.3-7 The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.
- § 4160.1(a) Proposed decisions shall be served on any affected applicant, permittee or Lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

- § 4160.2 Any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.
- § 4160.3(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

PROTEST PROVISIONS

In accordance with 43 CFR § 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision. In accordance with 43 CFR § 4160.3 (b), upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.

In accordance with 43 CFR § 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision. If the proposed decision were to become the final decision it may be appealed in accordance with the following section.

APPEAL PROVISIONS

In accordance with 43 CFR § 4.470 and § 4160.4, any applicant, permittee, lessee or other person whose interest is adversely affected by the Final Decision may file an appeal of the Decision. An appellant may also file a petition for stay of the Decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the Final Decision, or within 30 days after the date the Proposed Decision becomes final. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the Decision and listed at the end of the Decision, and on the Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Rm. E-1712, Sacramento, CA 95825-1890 (CFR § 4.471(b)).

The appeal must be in writing and state the reasons, clearly and concisely, why the appellant thinks the Final Decision is in error. Other provisions of 43 CFR § 4.470 also apply. The BLM does not accept appeals sent by electronic mail. Appeals transmitted by facsimile will be accepted so long as the BLM receives the original document with original signature within 7 days of the receipt of the facsimile transmittal.

A petition for stay, if filed, shall show sufficient justification based on the following standards (43 CFR § 4.471(c)):

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;

3. The likelihood of immediate and irreparable harm if the stay is granted; and,
4. Whether the public interest favors granting the stay.

43 CFR §4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the Decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Departmental Cases Hearings Division Office of Hearings and Appeals U.S. Department of the Interior 351 South West Temple, Suite 6300 Salt Lake City, Utah 84101, a motion to intervene in the appeal, together with the response, within 10 days of receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the Decision (43 CFR §4.471(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR §4.422(c)(2)).

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Carlton", with a long horizontal flourish extending to the right.

Christopher Carlton
Field Manager
Caliente Field Office

Enclosures

cc: Interested Public

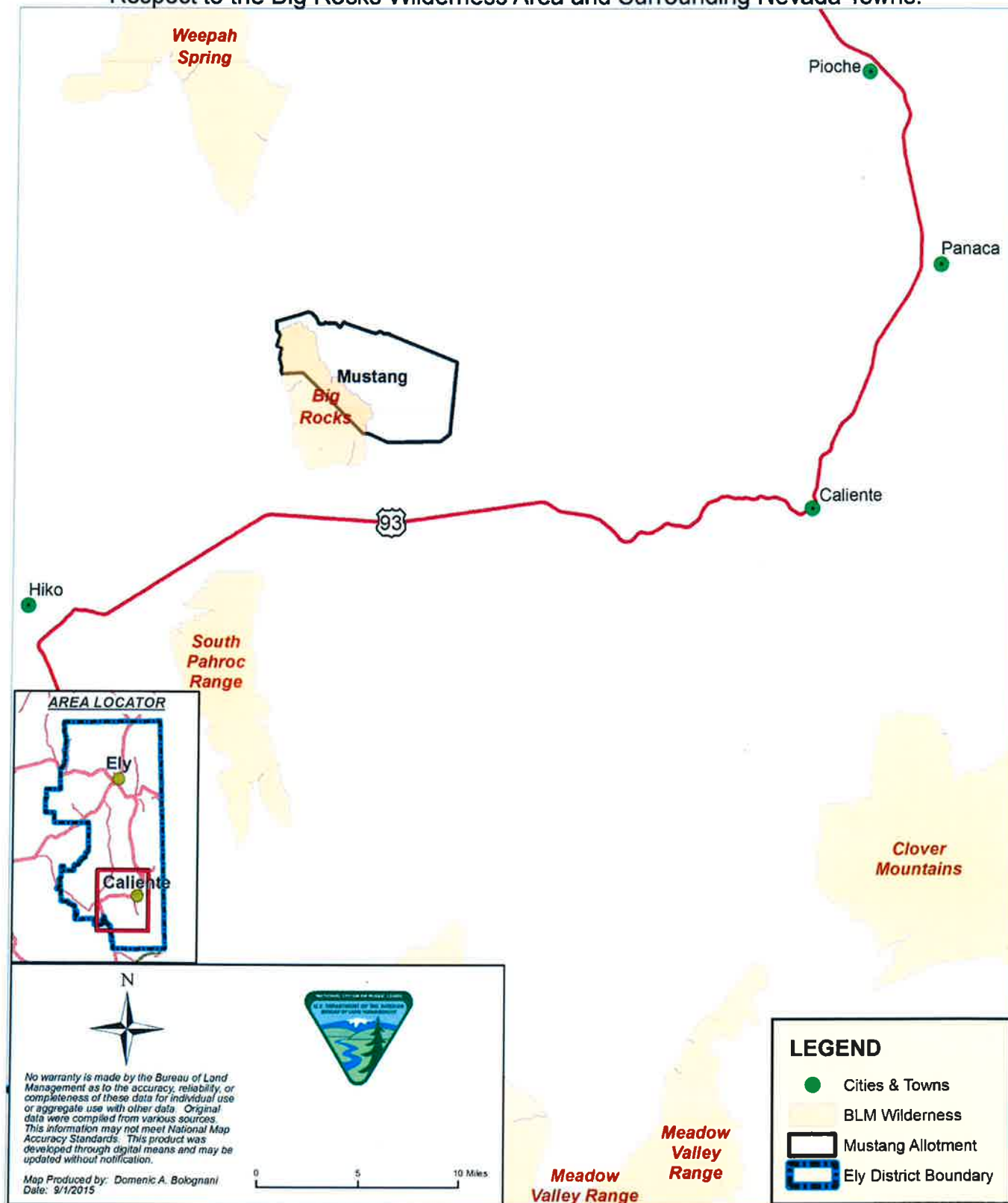
Arlin Hughes 175 West 400 North Veyo, UT 84782	CERTIFIED MAIL #7014 2120 0000 0555 5580 RETURN RECEIPT REQUESTED
Newby Cattle Co. 517 Belmont Drive St George, UT 84790	CERTIFIED MAIL #7014 2120 0000 0555 5597 RETURN RECEIPT REQUESTED
Fenton Bowler 825 West Veyo-Gunlock Veyo, UT 84782	CERTIFIED MAIL #7014 2120 0000 0555 5771 RETURN RECEIPT REQUESTED
Kelly And Melody Johnson 1115 Old Sharp Lane Hiko, NV 89017	CERTIFIED MAIL #7014 2120 0000 0555 5788 RETURN RECEIPT REQUESTED
Runnin C Ranch Family Partnership LP PO Box 125 Minersville, UT 84752	CERTIFIED MAIL #7014 2120 0000 0555 5795 RETURN RECEIPT REQUESTED
Kimberly Reinhart Senior Environmental Planner Southern NV Water Authority PO Box 99956 Las Vegas, NV 89193	CERTIFIED MAIL #7014 2120 0000 0555 5801 RETURN RECEIPT REQUESTED
Neda DeMayo Return To Freedom 4115 Julama Road Lompoc, CA 93436	CERTIFIED MAIL #7014 2120 0000 0555 5818 RETURN RECEIPT REQUESTED
Nevada Cattlemen's Association PO Box 310 Elko, NV 89803	CERTIFIED MAIL #7014 2120 0000 0555 5825 RETURN RECEIPT REQUESTED
Nevada Department Of Agriculture C/O: Tina Mudd 405 South 21 st Sparks, NV 89431	CERTIFIED MAIL #7014 2120 0000 0555 5832 RETURN RECEIPT REQUESTED
Sharedvision Inc. 6199 N. Bellecreek Avenue Boise, ID 83713	CERTIFIED MAIL #7014 2120 0000 0555 5849 RETURN RECEIPT REQUESTED
Steven Carter PO Box 27 Lund, NV 89317	CERTIFIED MAIL #7014 2120 0000 0555 5856 RETURN RECEIPT REQUESTED
Bernard Petersen Ranch And Resource Manager Southern NV Water Authority HC 10 Box 10853 Ely, NV 89301	CERTIFIED MAIL #7014 2120 0000 0555 5863 RETURN RECEIPT REQUESTED
SUSTAINABLE GRAZING COALITION C/O RICHARD A ORR PO BOX 145 CALIENTE NV 89008-0145	CERTIFIED MAIL #7014 2120 0000 0555 5870 RETURN RECEIPT REQUESTED

V&ST Enterprises C/O: Stuart Twitchell PO Box 401 Alamo, NV 89001-0401	CERTIFIED MAIL #7014 2120 0000 0555 5887 RETURN RECEIPT REQUESTED
Western Watersheds Project Ken Cole PO Box 2863 Boise, ID 83701	CERTIFIED MAIL #7014 2120 0000 0555 5894 RETURN RECEIPT REQUESTED
William Myers III Holland And Hart, LLP PO Box 2527 Boise, ID 83701	CERTIFIED MAIL #7014 2120 0000 0555 5900 RETURN RECEIPT REQUESTED
Bristlecone Chapter Of The Mule Deer Foundation Attn: Russel Lyons PO Box 814 McGill, NV 89318	CERTIFIED MAIL #7014 2120 0000 0555 5917 RETURN RECEIPT REQUESTED
Chris Collis 367 Grant Avenue Ely, NV 89301	CERTIFIED MAIL #7014 2120 0000 0555 5924 RETURN RECEIPT REQUESTED
Connie Simkins PO Box 461 Panaca, NV 89042	CERTIFIED MAIL #7014 2120 0000 0555 5931 RETURN RECEIPT REQUESTED
Curt Leet HC 32 Box 32120 Ely, NV 89301	CERTIFIED MAIL #7014 2120 0000 0555 5948 RETURN RECEIPT REQUESTED
Bradford D. Hardenbrook NDOW - Southern Region 4747 Vegas Drive Las Vegas, NV 89108	CERTIFIED MAIL #7014 2120 0000 0555 5955 RETURN RECEIPT REQUESTED
Dan Patterson Center For Biological Diversity PO Box 61523 Boulder City, NV 89006	CERTIFIED MAIL #7014 2120 0000 0555 5962 RETURN RECEIPT REQUESTED
Clay McCauley 2165 Green Vista, Suite 205 Sparks, NV 89431	CERTIFIED MAIL #7014 2120 0000 0555 5979 RETURN RECEIPT REQUESTED
Elise McAllister PO Box 387 Moapa, NV 89025	CERTIFIED MAIL #7014 2120 0000 0555 5986 RETURN RECEIPT REQUESTED
Gracian Uhalde PO Box 151088 Ely, NV 89315	CERTIFIED MAIL #7014 2120 0000 0555 5993 RETURN RECEIPT REQUESTED
Halstead Forsgren Inc., D&A Duckwater Cattle Co. Duckwater Road #1 Duckwater, NV 89314	CERTIFIED MAIL #7014 2120 0000 0555 6006 RETURN RECEIPT REQUESTED

John L McLain, RCI 340 North Minnesota Street Carson City, NV 89703	CERTIFIED MAIL #7014 2120 0000 0555 6013 RETURN RECEIPT REQUESTED
John Mitchell PO Box 139 Reno, NV 89504-0139	CERTIFIED MAIL #7014 2120 0000 0555 6020 RETURN RECEIPT REQUESTED
Kathy Gregg 6145 Galena Drive El Dorado, CA 95623-4540	CERTIFIED MAIL #7014 2120 0000 0555 6037 RETURN RECEIPT REQUESTED
Lincoln County Planning And Building Attn: Cory Lytle PO Box 329 Pioche, NV 89043	CERTIFIED MAIL #7014 2120 0000 0555 6044 RETURN RECEIPT REQUESTED
Delores Stewart 4906 North 2950 West Cedar City, Utah 84721	CERTIFIED MAIL #7014 2120 0000 0555 6051 RETURN RECEIPT REQUESTED
Maurice Frank Churchill/Annette Harris 511 Duckwater Falls Road PO Box 140036 Duckwater, NV 89317	CERTIFIED MAIL #7014 2120 0000 0555 6068 RETURN RECEIPT REQUESTED
Moriah Kolada, Biologist Eastern Region Nevada Department Of Wildlife 1218 North Alpha Ely, NV 89301	CERTIFIED MAIL #7014 2120 0000 0555 6082 RETURN RECEIPT REQUESTED
Wildlands Defense Katie Fite PO Box 125 Boise, ID 83701	CERTIFIED MAIL #7014 2120 0000 0555 6099 RETURN RECEIPT REQUESTED
Craig Hoover PO Box 150822 Ely, NV 89315	CERTIFIED MAIL #7014 2120 0000 0555 6112 RETURN RECEIPT REQUESTED

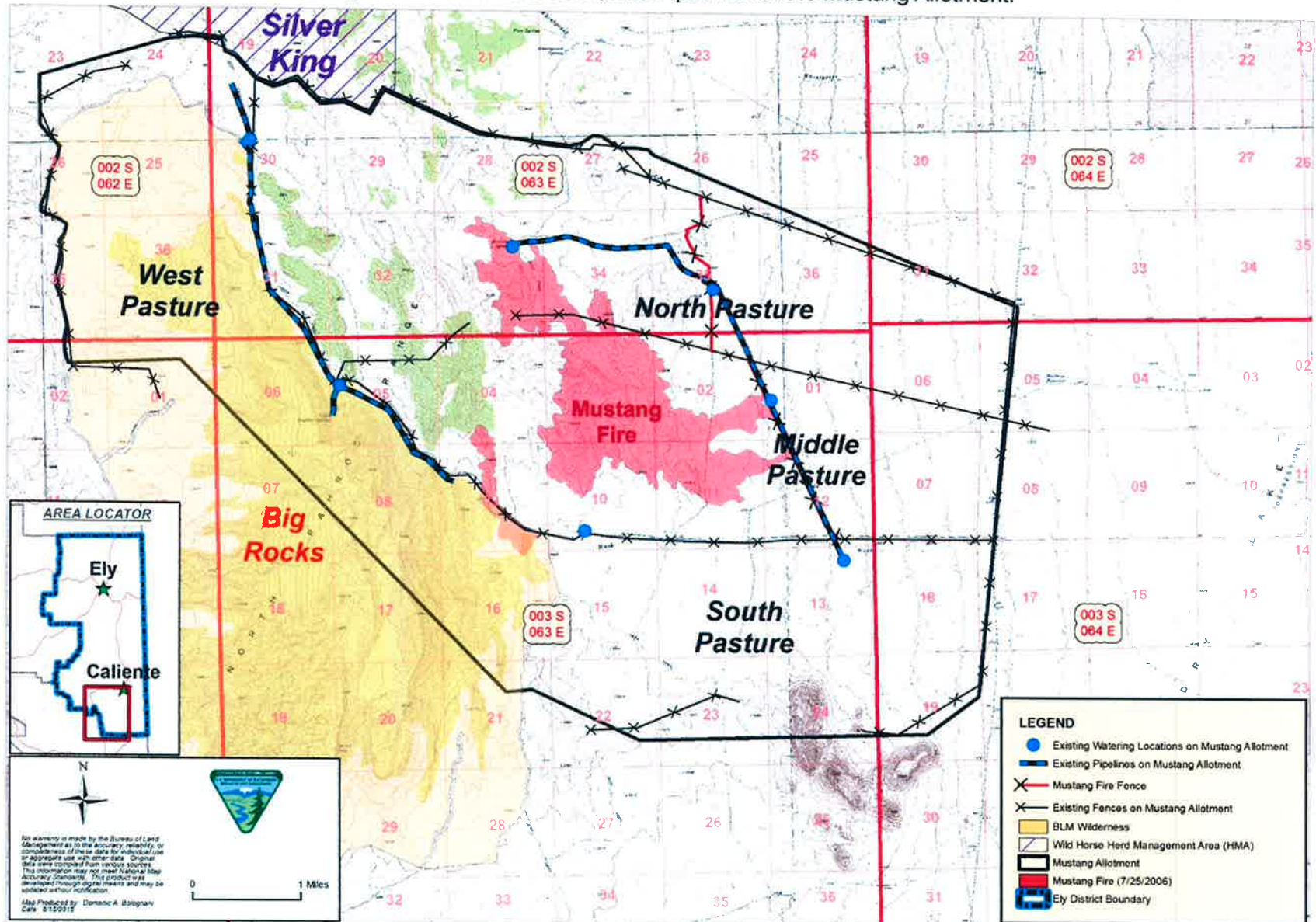
MAP 1. Mustang Allotment

Location of the Mustang Allotment (#01047) with
Respect to the Big Rocks Wilderness Area and Surrounding Nevada Towns.

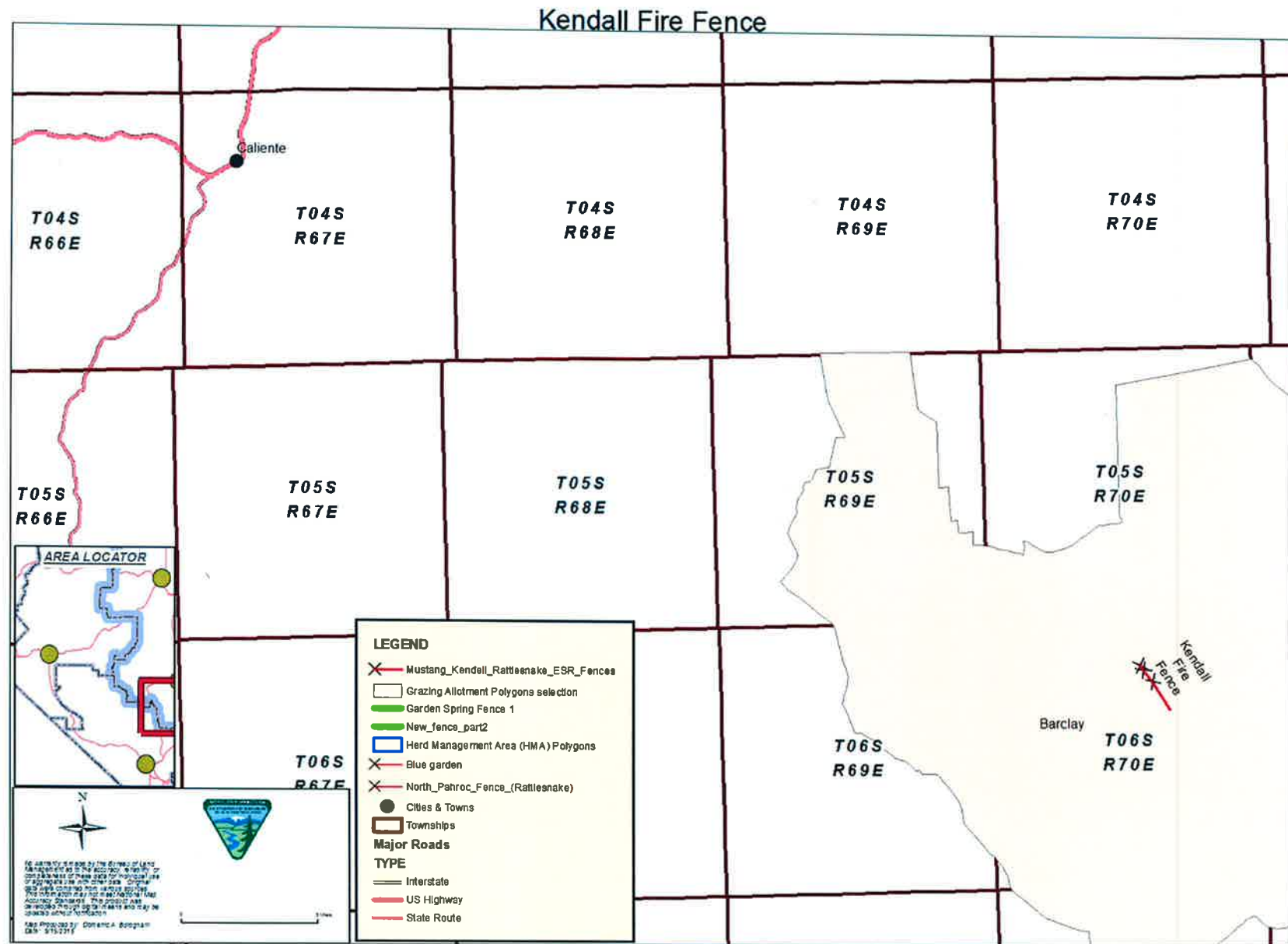


MAP 2. Mustang Allotment

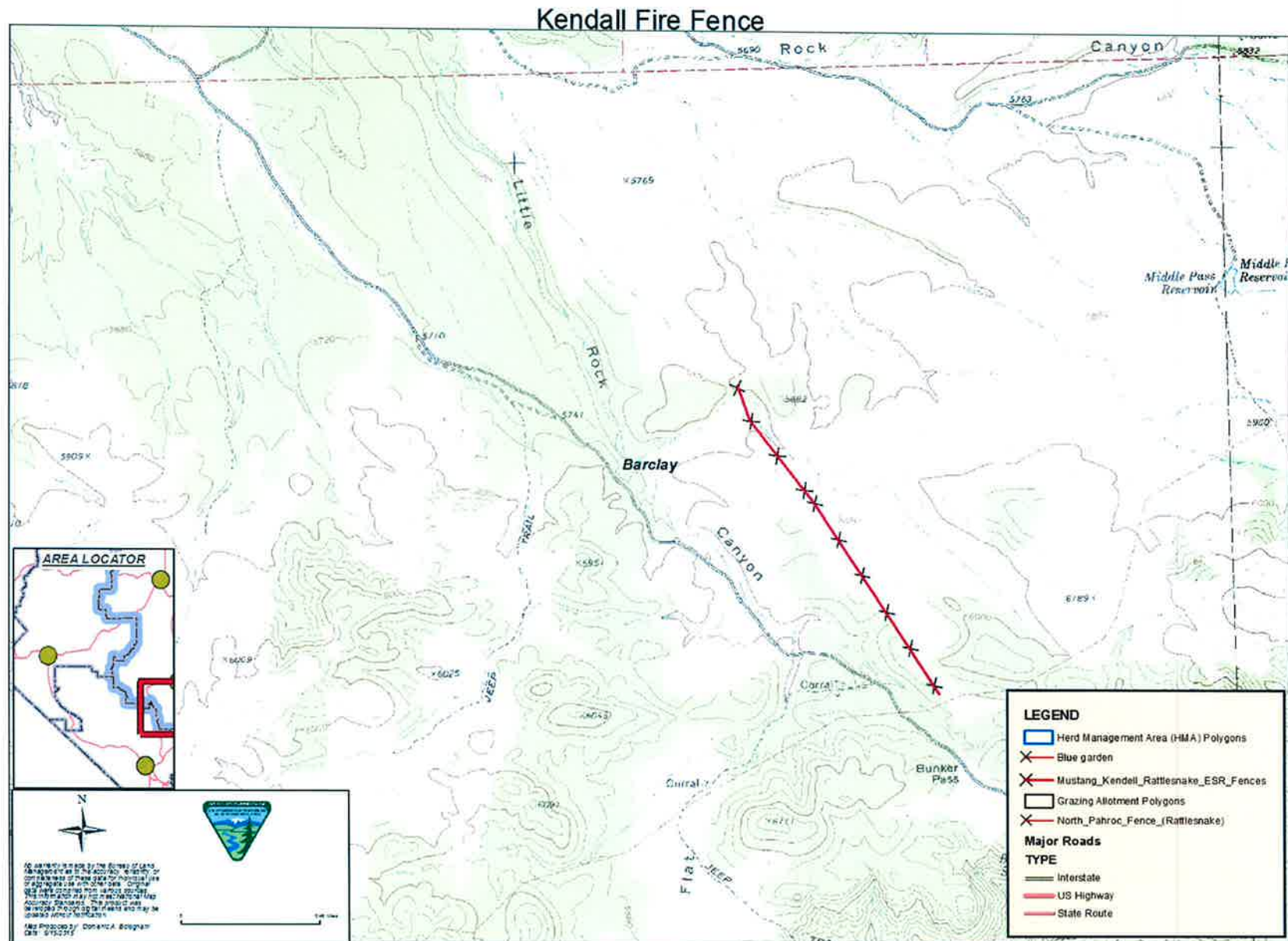
Location of the Mustang Fire Fence, Existing Watering Locations, Big Rocks Wilderness Area, and Pipelines on the Mustang Allotment.



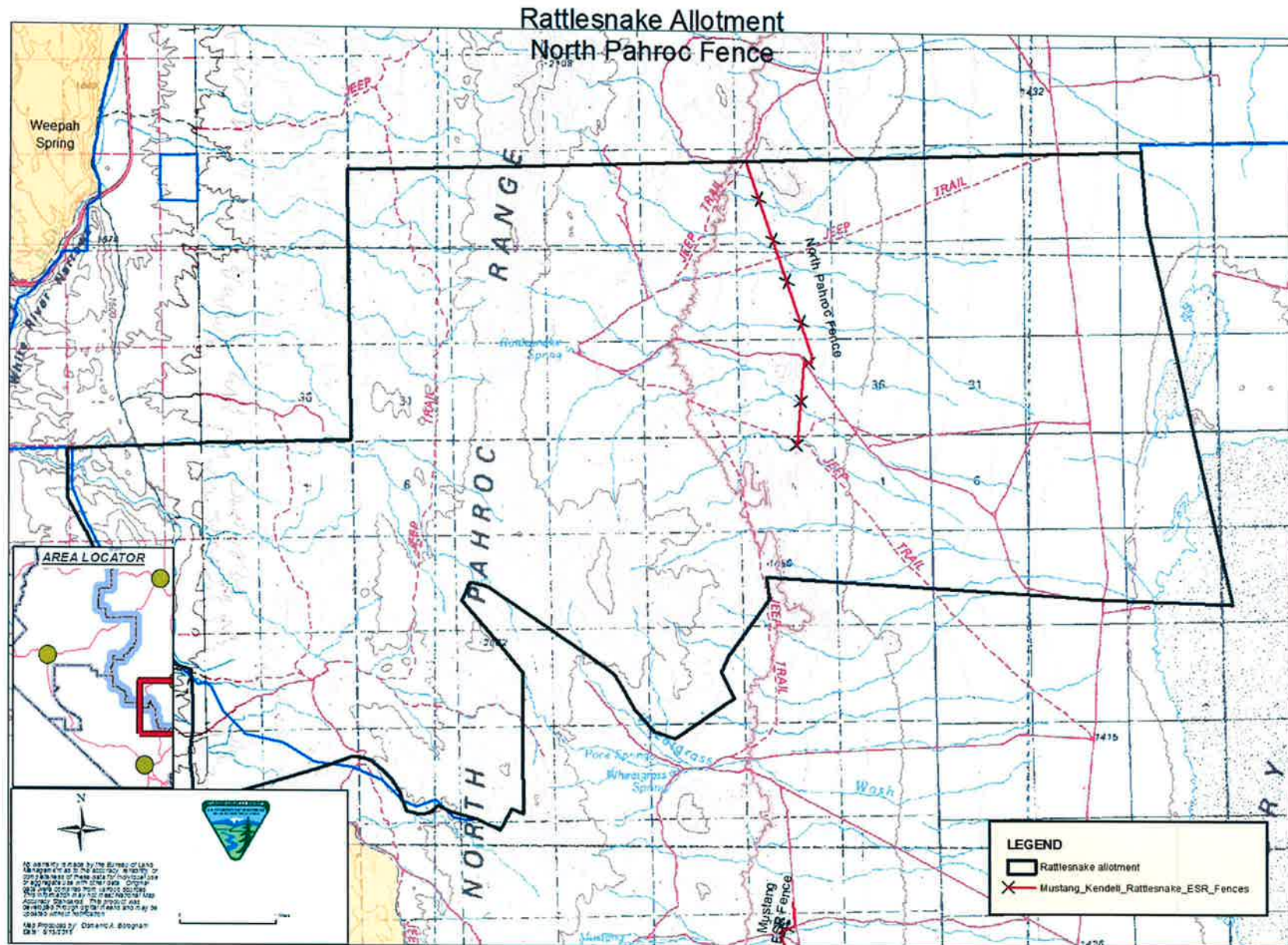
MAP 3. Barclay Allotment



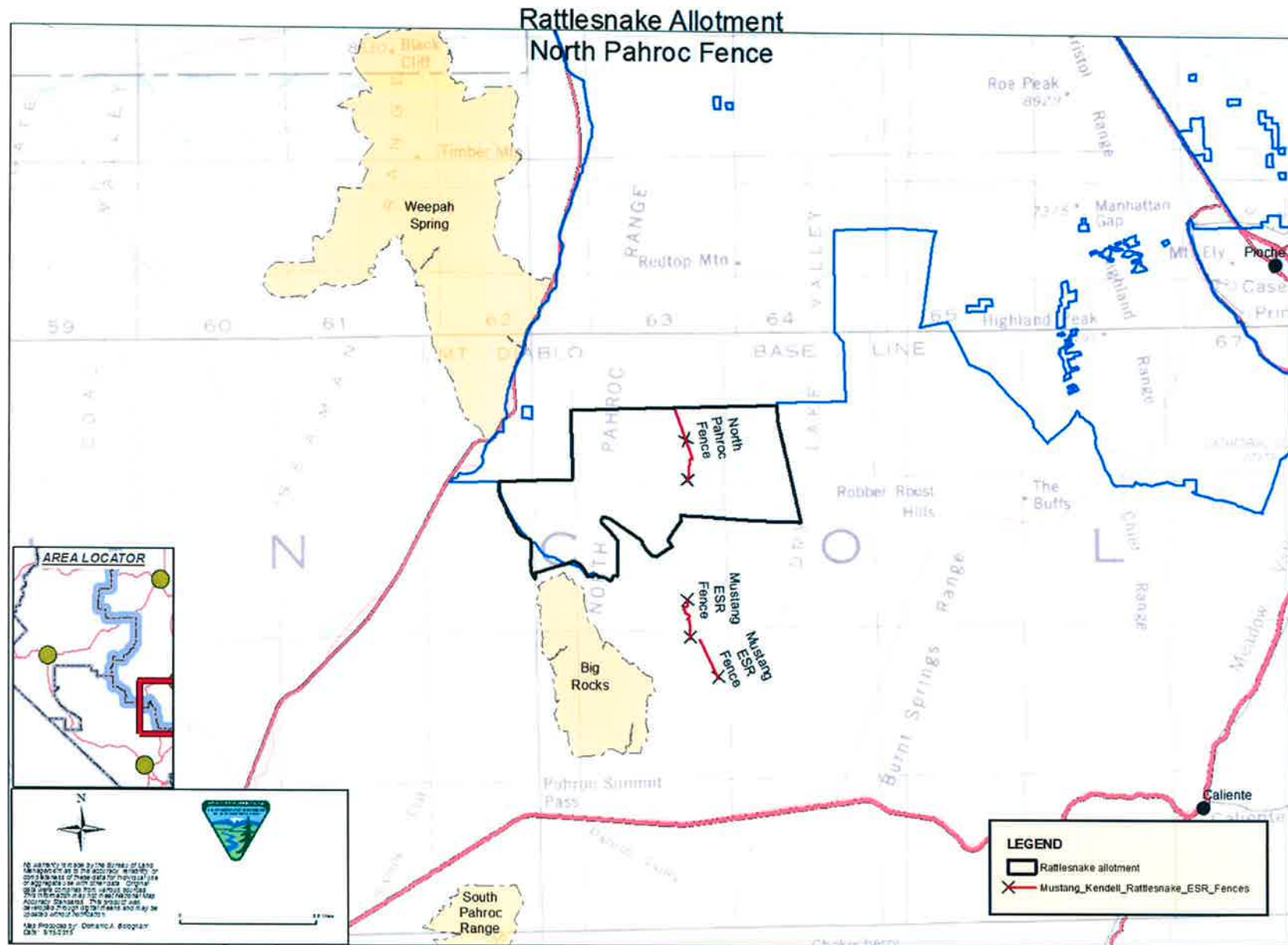
MAP 4. Barclay Allotment



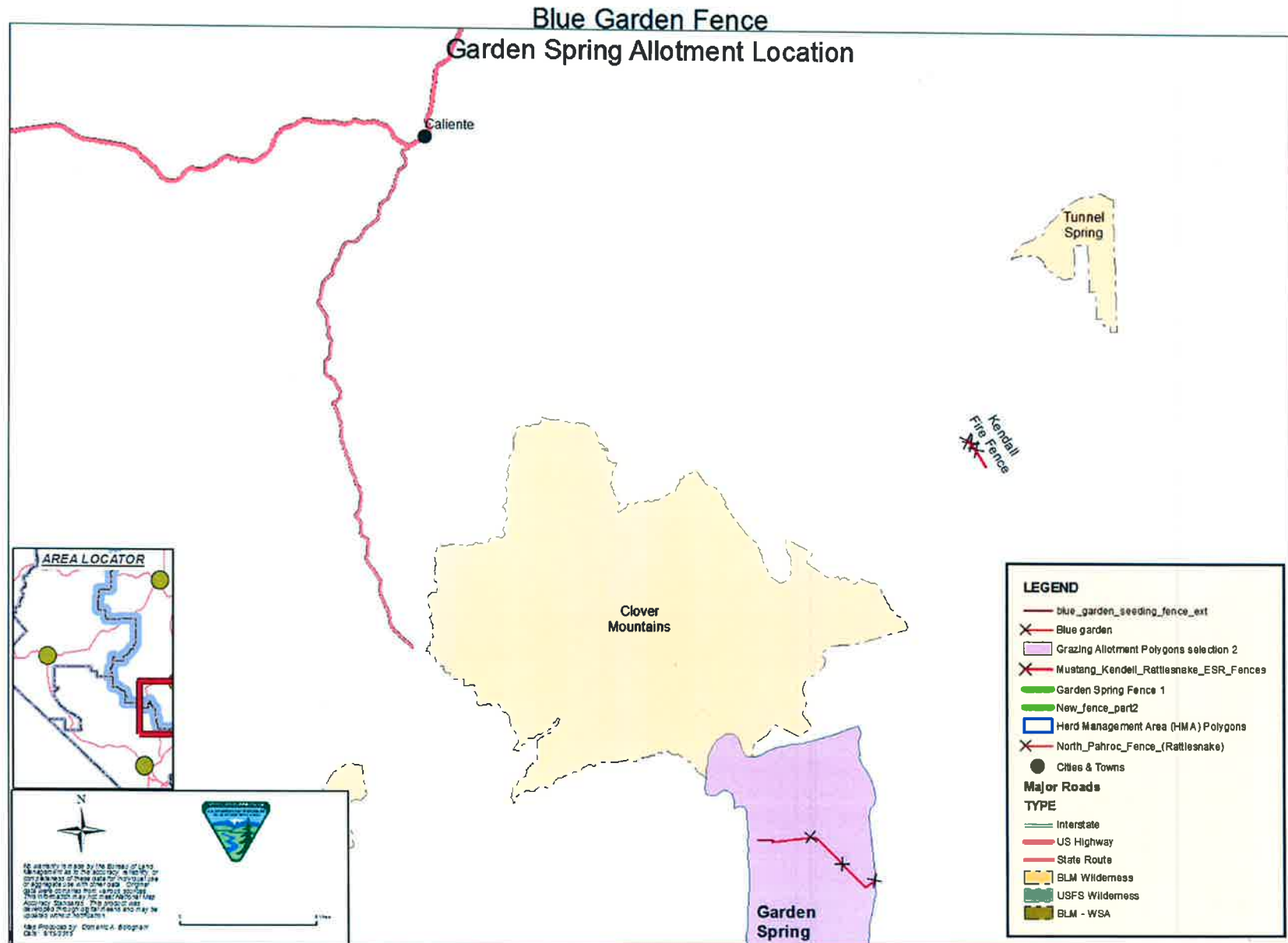
MAP 5. Rattlesnake Allotment



MAP 6. Rattlesnake Allotment



MAP 7. Garden Spring Allotment



MAP 8. Rattlesnake Allotment

